IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Narayan Reddy Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.261/2005

DATE OF ORDER :: October 11, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Vijay Raj Purohit, for the petitioner.
Mr.Ashok Upadhyaya, P.P.

BY THE COURT:

I have heard learned counsel for the petitioners and the Public Prosecutor. Mr. Usman Ghani, who used to be appeared on behalf of non-petitioner No.2, submits that now he has no instruction. No one appears for the non-petitioner No.2.

By the instant criminal misc. petition under section 482 Cr.P.P.C., the petitioners have challenged the order dt. 2.2.2005 passed by the Additional Sessions Judge (Fast Track) No.1, Bhilwara (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioners against the order dt.

14.7.2004 passed by the Judicial Magistrate (West), Bhilwara (for short 'the trial court' hereinafter), was dismissed.

It is contended by the learned counsel for the petitioners that after investigation, the police filed the negative final report. However, the trial court instead of accepting the negative final report, took the cognizance of the offences on the police papers. It is further contended by the learned counsel for the petitioners that the trial court has not considered the statement of Patwari Ramprasad as well as the site map and, therefore, the order taking cognizance is without application of mind. He has shown the statement of Patwari and site map. From the order of the trial court, it does not appear that such statement of Patwari or the site map was taken into consideration and, therefore, in the interest of justice, it is expedient to remand the matter to the trial court to pass a fresh order.

In the result, the petition is allowed. Orders passed by the trial court as well as by the revisional court are set aside. The matter is remanded to the trial court to pass a fresh order in accordance with law. Stay petition also stands disposed of.

[H.R.PANWAR],J.

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